IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1951 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SHAIKH FARIDMAHMAD SATTAR - Petitioner
Versus
MANAGING DIRECTOR & 3 - Respondents

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Appearance :
MR SP HASURKAR for Petitioner.
MR VARUN K. PATEL for MR KM PATEL for Respondent Nos. 1 & 3.
RULE SERVED BY DS for Respondent No. 2.
Respondent No. 4 deleted.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 03/02/2006

ORAL JUDGMENT

1.Mr. S.P. Hasurkar, learned advocate appearing for the petitioner seeks permission to delete the name of respondent No. 4. Permission prayed for is granted. The name of respondent No. 4 be deleted.

2.The petitioner has filed this petition under Article 226 of the Constitution of India praying for the direction to the respondents to issue appointment order to the petitioner forthwith. The petition was admitted and rule was issued on 10.10.1991.

3.It is the case of the petitioner that in the year 1987, the petitioner's name was recommended to the respondent organization for the post of Assistant Depot Manager. The petitioner was called for written test which

was scheduled to be held on 23.04.1988. The petitioner cleared the written test and topped the list at Sr. No. 9. Since the petitioner cleared the written test, he was called for the oral interview. The petitioner answered all the questions in the oral interview and topped once again and the select list was finally prepared by the respondent – Corporation. Since the petitioner has not heard anything about his appointment, he inquired into the respondent Corporation. The petitioner was informed by the respondent that he has been selected and necessary communication with regard to his appointment will be issued in due course. Thereafter, pursuant to the petitioner's further representation, the petitioner was informed that the seniority list was scrapped since it has completed 2 years and, therefore, there was no question of giving appointment to the petitioner.

4.The petitioner has submitted that the respondent – Corporation has acted totally in arbitrary manner. The respondent has not published or even notified the outcome of the interview taken by them. The respondent corporation has not even cared to inform the petitioner about his selection and his placement in the select list. The petitioner has averred in the petition that in August 1988 itself, more than 45 persons were appointed on the post in question. It is also averred by the petitioner that his turn in the select list has come. However, the same was ignored by the respondent. The petitioner has, therefore, requested this Court to direct the respondent – Corporation to declare the result. It is further stated that the respondents have communicated the result to respondent No. 4 and for that very reason and in the belief that the petitioner would get the employment, the petitioner has not made any attempt for any

other employment. The petitioner has now crossed the age limit and the petitioner was of 27 years of age at the time of filing of the petition. It is also alleged that there were large scale irregularities committed in the process of issuance of appointment letters. It is further stated that the persons having much less meritorious qualification and performance at the interview were given appointment and the petitioner's turn was deliberately and willfully ignored for the reasons best known to the respondents. Lastly, it is stated that the action of the respondents in not giving appointment to the petitioner was bad, illegal and against the fundamentals of service jurisprudence and Articles 14 & 16 of the Constitution of India.

5.An Affidavit-in-reply is filed by the Manager (Personnel) of the respondent Corporation. Mr. Varun K. Patel, learned advocate appearing for

Mr. K.M. Patel for the respondents has submitted that the selection and enlisting of a candidate in the select list does not confer right of appointment of such a candidate. The petitioner is, therefore, not entitled to the relief claimed for in the petition. He has further submitted that the petitioner is not entitled to get the appointment on the basis of his selection in question. The petitioner was selected along with other eligible candidates for the post of Asst. Depot Managers. About 700 candidates were called for written test and out of successful candidates, 247 candidates were called for oral interview. The committee, after interviewing 240 candidates, prepared select list of 105 candidates on 14.06.1988 for the post of Asst. Depot Managers. The Corporation operated select list and persons upto serial No. 45 were appointed. The select list was not operated further since there was no requirement.

6.Mr. Patel has further submitted that under Rule 6 of GSCSC Ltd. (Recruitment & Promotion) Rules, 1985, the select list is to be generally operated for a period of one year. The said Rule reads as under :-

> Rule :- 6
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> Select list prepared by the Personnel Committee or the Selection committee as the case may be, will be generally valid for a period of one year.

7.Mr. Patel has further submitted that the select list prepared on 14.06.1988 would have, therefore, lapsed on 13.06.1989. However, since after appointment of 45 candidates by 01.07.1988, there were 60 more candidates and that the select list was prepared after incurring considerable expenses of conducting written examination of about 700 candidates and interviewing about 247 candidates, it was

proposed that the validity of the select list be extended for a period of one year more i.e. till 12.06.1990. The Managing Director of the respondent Corporation, therefore, in exercise of the powers delegated to him by the Board of Directors extended the validity of the select list for a period of one year. The decision in that behalf was taken on 23.05.1989. Even during the extended validity period of the select list, no appointment could be made as there was no requirement. Thus, out of the select list, persons upto sr. No. 45 were appointed by 01.07.1988. The persons subsequent to sr. No. 45 could not be appointed even during the period of 2 years after preparation of select list. The select list was, therefore, cancelled w.e.f. 12.06.1990. As the petitioner's name was at sr. No. 57, he could not be appointed in the aforesaid circumstances. Mr. Patel has further submitted that the select list cannot be operated for

indefinite period. Doing so would deprive the persons of the opportunity of competing for the post, who become eligible for the post after the preparation of a select list. He has, therefore, submitted that the decision of the Corporation to cancel the select list prepared on 14.06.1988 after operating it for a period of 2 years cannot be said to be unreasonable or arbitrary. The petitioner, therefore, could not be appointed as the same was lower in the select list. Even otherwise, the petitioner has no legal right to seek appointment to the post on the basis of a stale select list. He has, therefore, submitted that the petition is untenable and the same is required to be dismissed.

8. In support of his submission, Mr. Patel has relied on the decision of the Hon'ble Supreme Court in the case of *S. Renuka and Others V/s. State of A.P. And Another, (2002) 5 S.C.C. 195*

wherein it is held that it is settled law that no right accrues to a person merely because a person is selected and his or her name is put on a panel.

9.Mr. Patel has further relied on the decision of the Hon'ble Supreme Court in the case of *M.P. Electricity Board through the Chief Engineer, M.P.EB and another V/s. Virendra Kumar Sharma, (2002) 9 S.C.C. 650* wherein it is held that any scheme for selection will depend upon the terms on which selections are made. In the case before the Hon'ble Supreme Court, there is a scheme as provided in the circular dated 09.12.1968 and that circular also provided for the panel to be valid/current for a particular period namely one year. After that period, the list would lapse and fresh panel has to be prepared. If that is the scheme, none of the decisions relied upon by the learned counsel for the respondent would be of any assistance.

The Court further held that the validity/currency of panel was for a particular period, that is a salutary principle, behind that Rule so that after the selections are made and appointments to be made may take long time, it is possible that new candidates may have become available who are better or more qualified than those selected, and if they are appointed it would be in the best interests of the institution.

10.Lastly, he has relied on the decision in the case of *Punjab State Electricity Board and Others V/s. Malkiat Singh, (2005) 9 S.C.C. 22* wherein it is held that mere inclusion of name of a candidate in the select list does not confer on him any vested right to get an appointment.

11.Considering the above facts and legal position, Mr. Patel has submitted that the

petitioner has no case and the petition deserves to be dismissed.

12.After having heard learned advocates appearing for the respective parties and after having gone through the memo of petition, affidavit-in-reply and authorities cited before the Court, the Court is of the view that the petitioner is not entitled to any relief in this petition. It is an admitted position that the petitioner was at sr. No. 57 in the select list and the appointments were made to the persons upto sr. No. 45 at the select list. The select list as per the rule was in operation for one year. The said period was extended for another one year and during this extended period also, no further appointment was made. After the expiry of the period of two years, the selection list was scrapped. After the select list is scrapped, it is not open for the petitioner to ask for appointment

on the basis of the staling select list. Even otherwise, position in law is well settled that mere inclusion of one's name in the select list does not confer any right to get appointment. There is no allegation to the effect that even after expiry of the selection list, persons down below at the select list were appointed by the respondent – Corporation. Since the respondent – Corporation has acted in accordance with its statutory rules and in accordance with the legal position, the Court has not found any infirmity in the selection process. Accordingly, the petition is dismissed. Rule is discharged without any order as to costs.

[K.A. PUJ, J.]

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